

ESTTA Tracking number: **ESTTA293892**

Filing date: **07/07/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	1-800-Healthy.com, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	834 Wilson Drive, Suite B Ridgeland, MS 39157 UNITED STATES		

Attorney information	Thomas M. Galgano, Esq. Galgano & Associates, PLLC 20 W. Park Avenue, Suite 204 Long Beach, NY 11561 UNITED STATES tmgalgano@rcn.com Phone:516-431-1177		
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### Registration Subject to Cancellation

Registration No	2875128	Registration date	08/17/2004
Registrant	PRONOVA BIOPHARMA NORGE AS VOLLSVEIEN 6 LYSAKER, NORGE, N-1366 NORWAY		

### Goods/Services Subject to Cancellation

Class 005. First Use: 2000/01/00 First Use In Commerce: 2003/10/08 All goods and services in the class are cancelled, namely: Nutritional supplements, namely, Omega-3 fatty acids used as natural remedies and other polyunsaturated fatty acids in capsules and liquid form for dietetic and medical use
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Related Proceedings	Petition for Cancellation being filed concurrently for Registration No. 3,120,934.
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Attachments	PetitionToCancel(A).pdf ( 4 pages )(123084 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/tmg/
Name	Thomas M. Galgano, Esq.
Date	07/07/2009



As grounds of the Petition, Petitioner alleges that:

1. Petitioner is the owner of U.S. application Serial No. 77/642,596 filed January 2, 2009 for the mark TRIOMEGA in connection with nutritional supplements, in International Class 5, which was filed pursuant to 15 U.S.C. 1051(b).

2. Upon information and belief, Registrant is the owner of U.S. Registration No. 2,875,128 for the mark TRIOMEGA as currently registered for nutritional supplements, namely, omega-3 fatty acids used as natural remedies and other polyunsaturated fatty acids in capsules and liquid form for dietetic and medical use, in International Class 5.

3. In an Office Action dated February 25, 2009, Petitioner's aforesaid application was refused registration on the basis of Registrant's aforesaid registration.

4. Upon information and belief, Registrant has discontinued all use of its mark TRIOMEGA for use in conjunction with the aforesaid goods set forth in paragraph 2 hereof, with an intent not to resume such use. As a result, Registrant has abandoned this mark and the Registration should be canceled.

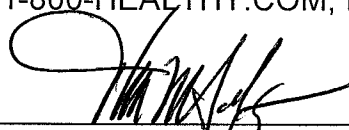
5. Petitioner is damaged by the continued existence of Registrant's Registration No. 2,875,128 because Petitioner's mark has been refused registration thereof by the USPTO on the basis thereof and Petitioner's ability to register its mark will be impaired and its ability to legally use its mark will be inhibited by the continued presumption of the validity of Registrant's Registration for its abandoned mark.

WHEREFORE, Petitioner requests that Registrant's mark TRIOMEGA be deemed abandoned and that the instant Petition for Cancellation be granted and that the Registration No. 2,875,128 be canceled in due course.

Enclosed is Credit Card Payment in the amount of \$300.00 to cover the filing fee. The Commissioner is hereby authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 50-3990.

Respectfully submitted,

1-800-HEALTHY.COM, INC.



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Thomas M. Galgano, Esq.  
Jessica G. Bower, Esq.  
GALGANO & ASSOCIATES, PLLC  
Attorneys for Petitioner  
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Long Beach, New York 11561  
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Enclosure: Credit Card Payment in the amount of \$300.00

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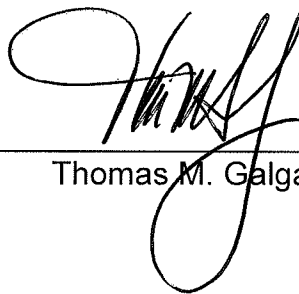
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **PETITION FOR CANCELLATION** has this 7th day of July, 2009, been sent via first class mail to:

Carole F. Barrett, Esq.  
Bryn Aarflot AS  
P.O. Box 449 Sentrum  
N-0104 Oslo, Norway

and

Carole F. Barrett, Esq.  
Howard Rice et alia  
Three Embarcadero Center, 7th Floor  
San Francisco, CA 94111-4024



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Thomas M. Galgano